

Approved: Jan 31, 1994  
Date

## MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION.

The meeting was called to order by Chairperson Audrey Langworthy at 11:07 a.m. on January 27, 1994 in Room 519-S of the Capitol.

Members present: Senator Langworthy, Senator Tiahrt, Senator Martin, Senator Bond, Senator Corbin, Senator Feleciano Jr., Senator Hardenburger, Senator Lee, Senator Reynolds, Senator Sallee, Senator Wisdom

Committee staff present: Tom Severn, Legislative Research Department  
Chris Courtwright, Legislative Research Department  
Bill Edds, Revisor of Statutes  
Don Hayward, Revisor of Statutes  
Elizabeth Carlson, Committee Secretary

Conferees appearing before the committee: Larry Clark, Kansas County Appraisers' Association  
David Cunningham, Director, Property Valuation Division  
Ellen Foster, Kansans for Fair Taxation

Others attending: See attached list

### APPROVAL OF MINUTES

Senator Bond moved to approve the minutes of January 25, 1994 and January 26, 1994. Senator Martin seconded the motion. The motion carried.

### REQUESTS FOR INTRODUCTION OF BILLS

Senator Sallee moved to introduce a bill which allows interest, attorney fees and court costs associated with the refund of protested property tax. The motion was seconded by Senator Martin. The motion carried.

### SB 541--PROPERTY TAXATION; APPRAISAL STANDARDS; REAL ESTATE RATIO STUDY

Larry Clark, Kansas County Appraisers' Association, appeared in support of **SB 541**. (Attachment 1) He stated there have been problems in the real estate ratio study. He spoke of the credentials of the International Association of Assessing Officers and urged the adoption of their professional guidelines for use in establishing accurate market estimates as well as forming an acceptable basis on which their accuracy may be judged. These standards of the IAAO describe the process to be followed in completing an acceptable appraisal and form the basis for censure of any appraiser who does not follow them. The Kansas County Appraisers' Association proposes the IAAO standards on ratio studies be formally adopted by the state of Kansas.

The bill was proposed by the Kansas County Appraisers' Association and arose out of a problem in defining market value. It provides additional guidelines for this.

Mr. Clark stated the IAAO standards were promulgated in 1990. There was discussion if the standards were revised continually, and the date used in **SB 541** is January 1, 1994, the date would have to be changed annually. Mr. Clark said this bill would give some guidance for defining market values. He was asked the difference between "median" and "average" and he said median is more stable and more widely accepted. There were also questions from the committee regarding the change in sales to be included in the ratio study. **SB 541** suggests the ratio study go back over 4 years. The ratio study required all transactions whether or not they represented market value. To get a true market value, the sales in the ratio study have to be limited to certain sales.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON ASSESSMENT AND TAXATION, Room 519-S  
Statehouse, at 11:07 a.m. on January 27, 1994.

Staff asked a question if the new language on page 2, lines 3 to 5 including only residential, commercial and vacant classes of real property, would exclude all other real property? Mr. Clark said that was not his interpretation but this would go along with the Judge's order. It is not intended to restrict the Director from using any property in the ratio study.

David Cunningham, Director, Property Valuation Division, appeared to support **SB 541** with a few modifications. (Attachment 2) He said the standards of IAAO addresses large counties and not small counties. They provide general direction but do not prescribe details needed to conduct a specific ratio study. They are not always current with changes in statistical research. The Property Valuation Division uses a technical advisory committee to provide technical oversight, quality assurance and improvement goals for an annual ratio study. Kansas is making real progress on improving IAAO standards and those standards can be expanded to a higher level for Kansas. He proposed changes in line 18 through line 21, KSA 79-503a, which defines a fair market value. (See attachment 2)

Questions for Mr. Cunningham concerned his suggested amendments and if this wording is from the IAAO. He said it is not, and if the language as suggested is used, BOTA cannot direct all sales be included.

Ellen Ross, Kansans for Fair Taxation, spoke as an opponent to **SB 541**. (Attachment 3) She said her group is against any changes in KSA 79-1460 or which removes requirements for physical inspection of property. She said property cannot be evaluated properly without a physical inspection. She spoke of examples in Shawnee County which she considers to be wrong. She urged the committee not to pass **SB 541**.

The committee had questions again for Larry Clark about how a fair market value is determined. He replied a fair market value is determined by physical site inspection, analyzing of the market, and the selling price of neighborhood property. Ms. Ross complained about County Commissioners who had set market values and a question was asked if this was permitted in the statutes. Mr. Clark said to his knowledge it is not provided for in the statutes; however, as hearing officers they have the authority to define values in hearings which come before them.

Senator Langworthy announced that **SB 542--Property taxation; appraisal for illegal levies** will be scheduled for a later date.

The meeting adjourned at 12:00 noon

The next meeting is scheduled for January 31, 1994.

DATE: Jan 27, 1994

[illegible]

SENATE BILL 541

SENATE COMMITTEE ON ASSESSMENT AND TAXATION

JANUARY 27, 1994

Madame Chairman and members of the Senate Committee on Assessment and Taxation, my name is Larry Clark and I am here representing the Kansas County Appraisers' Association in support of passage of Senate Bill 541. Let me begin by thanking the members of the Committee for agreeing to have this bill introduced for consideration.

The real estate ratio study has been the center of some controversy in Kansas since the first posting of reappraised values in 1989. County appraisers have been accused of excluding "good" sales from the study or adjusting appraisals to equal selling prices (a practice called sales chasing). Property valuation division has been accused by county appraisers of including invalid sales while being pressured by some in the legislature and elsewhere to include as many transactions as possible. All involved have groped for a clear understanding of what is to be done and how it is to be accomplished.

The International Association of Assessing Officers was founded over fifty years ago specifically to address mass appraisal issues. Over its lifetime it has developed training courses for mass appraisers, established professional designations, offered technical assistance to taxing jurisdictions and written standards which serve as guidelines covering many aspects of mass appraisal. That organization is currently working with newly formed democracies in eastern Europe and other parts of the world to help them literally establish local units of government.

In short, this organization is expert in the field of mass appraisal. It's standards have been adopted at least operationally by many jurisdictions in the United States. What the Appraiser's Association proposes is that the IAAO Standard on Ratio Studies be formally adopted by the State of Kansas.

In addition, the IAAO has joined with other major appraisal organizations in the United States to form the Appraisal Foundation one arm of which has promulgated a set of uniform standards to which all of the members have subscribed. These Uniform Standards of Professional Appraisal Practice describe the process to be followed in completing an acceptable appraisal and form the basis for censure of any appraiser who does not follow them.

The Appraisers' Association would urge the adoption of these professional guidelines for use in establishing accurate market estimates well as forming an acceptable basis on which their accuracy may be judged.

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*att 1-1*

STATE OF KANSAS

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Department of Revenue  
*Division of Property Valuation*

**MEMORANDUM**

**TO:** Senator Audrey Langworthy, Chair  
Senate Assessment & Taxation Committee

**FROM:** David C. Cunningham, Director  
Division of Property Valuation

**DATE:** January 11, 1994

**SUBJECT:** Senate Bill 541

I appear today in support of S.B. 541. However, I believe a few modifications would be helpful.

IAAO readily admits their standards primarily address large county scenarios at the expense of small counties. They indicate the standards are intended to provide general direction and do not attempt to prescribe details needed to conduct a specific ratio study. Furthermore, all issues and/or shortcomings of the standards are not addressed. IAAO stays away from controversial or complex statistical issues and they are not always current with changes in statistical research.

The technical advisory committee should be the primary force in providing technical oversight, quality assurance and improvement goals for the annual ratio study in Kansas. Under their guidance we have made some real progress on improving the IAAO standards and our published research will likely have national impact. Dr. Fisher ask "Why should we settle for mediocrity?" I do not believe he is suggesting that IAAO standards are inappropriate, but that they are general in nature and we can expand those standards to a higher level for the benefit of the counties and the state.

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I would propose the following:

- remove the language in italics, in lines 18 through 21 because K.S.A.79-503a defines a fair market value sale. We do not need two definitions of fair market value.
- insert the following definition in Section 1
  - "Valid sale" is a sale that is an indicator of "fair market value" as defined in K.S.A. 79-503a, and amendments thereto;
  - "Invalid sale" is a sale that is not an indicator of "fair market value" as defined in K.S.A. 79-503a, and amendments thereto;
  - "Unvalidated sale" is a sale that has not been determined to be either a "valid sale" or an "invalid sale" as defined here in;
- insert the word "minimum" in line 40 immediately preceding the word "standard."

**Kansans For Fair Taxation**  
**1132 S.W. Wanamaker Road**  
**Topeka, Kansas 66604**

January 27, 1994

Senate Committee on Assessment and Taxation  
Senate Bills 541 and 542

Honorable members of the Senate Committee on Assessment and Taxation. My name is Ellen Ross and I am representing the members of Kansans For Fair Taxation, Inc. I stand here today in strong opposition of both Senate Bills 541 and 542.

Specifically we are against any action which changes the language of KS79-1460 or which removes requirements for physical inspection of property or which removes the concept of substantial and compelling reason.

It is clear that the Property Valuation Division does not like the provisions of KS79-1460. The law requires accuracy and meaningful data before property values can be raised. PVD would prefer values be established on the computer console. The Wall Street Journal has repeatedly stated that the property values nationwide since 1986 have fallen by 50%. This is a correction of inflated values, a result of the Tax Reform Act of 1986, the Resolution Trust's efforts to sell property from failed savings and loan institutions, the "oil patch" crisis, and other factors. A computer simply cannot evaluate market trends such as have occurred.

The fact is that property cannot be evaluated correctly without on site evaluation. This becomes even more critical once values have been established in the appeal process. One glaring criticism since reappraisal\classification is the cry that once the citizen or business wades through the appeals process and obtains a fair market value, the process must be repeated the next year because the value is arbitrarily raised again. Year after year this has happened. If the law is followed the county cannot raise values without a physical inspection and substantial and compelling reason.

PVD is becoming an empire. The PVD director is probably the third most powerful person in the state. The staff are bureaucrats which protect their dynasty and make brief attempts to reduce the necessary work for accurate establishment of fair market value. There is strong evidence that PVD's power has been abused.

An example of that abuse has occurred twice in Shawnee County. Thirty-six commercial properties in Shawnee County were purposefully singled out for valuation increases. A total of 122 fit the search criteria. Of these 122, half were residential. All residential properties were thrown out. Of the half that remained, 31 were vacant commercial land. Of these vacant commercial lands, only one was selected--not the biggest in size or value but a property owned by an outspoken critic of the system. Fourteen of these properties were promptly dismissed because PVD violated KS79-1460. Within 3 months and tens of thousands of dollars in attorney fees, the rest of the

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property owners beat PVD to a pulp. All 36 properties have had their previous value reinstated. The whole issue centered around protection of the mill levy rather than establishing fair market value. Many of the 36 had their values established in the appeals process. One property had even had its value established in district court.

The second example involves 750 properties in Shawnee County who have had their values raised by the vote of two commissioners without regards to KS79-1460. PVD should have reminded the appraiser to inform the commissioners this was unlawful. The fact is PVD did nothing in their supervisory capacity. David Cunningham has admitted to members of our board he does not like KS 79-1460 and will not follow it unless directed to do so by a Supreme Court decision. We find this totally amazing that an attorney would go against the concept the we are a land of laws, not a land of men.

As you can see the bureaucracy is killing Kansas--they are a law unto themselves. The legislators initiate and pass what appears to be sound legislation to protect the people, but the bureaucrats pay no heed until challenged in courts of law. If it is evident they are going to lose, they retreat in an attempt to allow the issue to die in the dark. Appraisal of property is hard work. To rely on computers, a labyrinth of confusion, intimidation, and power to maintain inequitable property values is to offer no hope in the appeals process. It becomes a one-way ratchet.

We need KS79-1460 in its full strength. Please do not let either SB 541 or 542 out of committee.

Respectfully submitted,

Ellen Ross, Lobbyist

Board of Directors:

Ellen Ross  
Larry Fischer, DVM  
Jack Bengé



# Property taxes are continuing to soar

**A**s Americans scramble for year-end tax breaks, dodges and shelters from federal taxes, the largest amount of wealth confiscation takes place on the local level. The fight is with city hall, not Congress.

Federal taxes are like the heists that occur in broad daylight with the cameras rolling. The slew of state and local taxes are more like the quiet embezzlement — harder to track but just as bankrupting.

From 1985 to 1991, federal taxes rose 43 percent and state taxes rose an average of 44 percent. At the same time, local taxes (mostly property taxes) jumped an average of 60 percent.

John Shannon, a senior fellow at the Urban Institute, in Washington, D.C., calls the trend in greater local tax increases "fend for yourself federalism." One of his Urban Institute colleagues, George Peterson, explains that recent years have seen "sharply declining federal contributions to local budgets and local increases to replace the lost revenue. And since there was a slow growth in sales and personal taxes, and a decline in corporate taxes as a result of the recession, property taxes bore the brunt (in filling the revenue gap)."

Currently, an estimated \$186 billion is collected each year in property taxes by more than 13,500 local government units across the United States.

Another \$7 billion is collected by state governments.

Polls consistently show that property taxes are the least liked form of taxation. Chris Edwards, an economist with the Tax Foundation, believes it's because "property taxes have often been poorly administered and subject to political influence, leading to unequal and unfair assessments." Of course, property taxes seem particularly unjust because they're a tax on potential wealth rather than real wealth.

For senior citizens who have paid off their homes, and don't intend to sell, it's a particularly heavy burden. Property taxes sometimes price widows out of homes they planned to live in until they die. One reader in the Midwest was particularly eloquent about this inequity in a letter: "You buy a lot, build a house, pay off the mortgage and you're still not home free. For the rest of your life, you must rent your home from the government at an ever increasing rate. You have created property for the government. If you don't believe it, stop paying your property taxes. You will soon find out who the real owner is."

A large part of the rage over property taxes is mixed in with anger over the decline of public schools, which claim 40 percent of all local property taxes. In Michigan, home to the third-largest public school system in the country, frustrations reached a boiling point last summer when Gov. John Engler signed a bill that eliminates the property tax beginning next year.

"We have," Engler declared, "a 19th century system of education whose funding has been based on unfair property taxes. We can no longer accept in this state a monopoly of mediocrity."

Michigan pays 65 percent of those bills through property taxes. The legislature is currently scrambling to make up the deficit, or reverse the bill in their body or the courts. They know it will be tough going, because Michigan has one of the highest property tax burdens in the country, 30 percent above the national average. The property tax for a typical \$100,000 house is more than \$2,500.

Another state recently acting on property taxes is Colorado, where last November voters passed a highly restrictive constitutional amendment that prohibits any tax increase without a popular vote.

In all, 33 state governments nationwide now place some kind of limit on local property tax rates, while 16 states place limits on property tax revenues.

Somehow, all this hasn't prevented them from rising, and rising fast. Property taxes per capita increased an average of 132 percent across the country from 1980 to 1991. The biggest increase — 329 percent — was in the District of Columbia. Following Washington, D.C., with the largest per capita increases since 1980 are New Hampshire, Virginia, South Carolina and New Jersey.

Experts estimate that 60 percent of taxable property in the United States is over-assessed, which naturally leads to higher tax bills. Yet fewer than one in 50 property owners challenge their assessments — even though the taxpayer may only win a partial victory it's worth a try: At least half of those who challenge their assessments win reductions of 10 percent or more in a matter of months.

That's the only good news to report this tax season.



**Jack  
Anderson**  
Washington  
merry-go-round

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